

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 399**

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**Introduced by Assembly Member Ridley-Thomas**

February 19, 2015

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An act to amend Section 1253.3 of, and to repeal Sections 1451, 1452, and 1453 of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 399, as amended, Ridley-Thomas. Unemployment insurance: classified employees.

Existing law provides for the payment of unemployment compensation benefits and extended duration benefits to eligible persons who meet specified requirements. Existing law prohibits the payment of unemployment benefits to education employees of a public entity, as defined, including teachers, researchers, and administrators for the period between 2 academic years when there is a reasonable assurance that the employee will perform his or her regular services in the subsequent academic year, except as specified. Existing law similarly prohibits the payment of unemployment benefits to specified education employees of a public entity, other than teachers, researchers, or administrators between 2 academic years, except as specified, but provides a procedure for this 2nd category of educational employees, under certain conditions, to seek payment of retroactive unemployment benefits for the period between 2 academic years. Existing law requires specified notice regarding reasonable assurance of employment in the following academic term be sent to employees before the end of the current academic term. Existing law also authorizes payment of

unemployment insurance benefits, using funds from the State Department of Education, to the 2nd category of educational employees at specified schools between academic terms in circumstances where benefits would otherwise be denied.

This bill would delete the prohibition on the payment of unemployment benefits to education employees of a public school, other than teachers, researchers, and administrators, as specified, between 2 academic years. The bill would phase in up to 8 weeks of benefits available to those specified employees over a 4-year timeframe and would make conforming changes, including eliminating the provisions for payment of unemployment benefits to these employees at the specified schools.

Because this bill would expand the categories of people who could receive benefits from the Unemployment Insurance Fund, a continuously appropriated fund, it would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1253.3 of the Unemployment Insurance
- 2 Code is amended to read:
- 3 1253.3. (a) Notwithstanding any other provision of this
- 4 division, unemployment compensation benefits, extended duration
- 5 benefits, and federal-state extended benefits are payable on the
- 6 basis of service to which Section 3309(a)(1) of the Internal
- 7 Revenue Code applies, in the same amount, on the same terms,
- 8 and subject to the same conditions as benefits payable on the basis
- 9 of other service subject to this division, except as provided by this
- 10 section.
- 11 (b) ~~(1)~~—Benefits specified by subdivision (a) based on service
- 12 performed in the employ of a nonprofit organization, or of any
- 13 entity as defined by Section 605, ~~except for a public school as~~
- 14 ~~defined in Section 22161 of the Education Code~~, with respect to
- 15 service in an instructional, research, or principal administrative
- 16 capacity for an educational institution are not payable to any
- 17 individual with respect to any week which begins during the period
- 18 between two successive academic years or terms or, when an
- 19 agreement provides instead for a similar period between two regular
- 20 but not successive terms, during that period, or during a period of

1 paid sabbatical leave provided for in the individual's contract, if  
2 the individual performs services in the first of the academic years  
3 or terms and if there is a contract or a reasonable assurance that  
4 the individual will perform services for any educational institution  
5 in the second of the academic years or terms.

6 ~~(2) Benefits specified by subdivision (a) are authorized for an~~  
7 ~~employee of a public school, as referenced in paragraph (1), as~~  
8 ~~follows:~~

9 ~~(A) Two weeks of benefits during 2016 beginning July 1.~~

10 ~~(B) Four weeks of benefits during 2017 beginning July 1.~~

11 ~~(C) Six weeks of benefits during 2018 beginning July 1.~~

12 ~~(D) Eight weeks of benefits during 2019 and each year thereafter~~  
13 ~~beginning July 1.~~

14 (c) ~~Benefits~~ *(1) Except as provided in paragraph (2), benefits*  
15 *specified by subdivision (a) based on service performed in the*  
16 *employ of a nonprofit organization, or of any entity as defined by*  
17 *Section 605, with respect to service in any other capacity than*  
18 *specified in subdivision (b) for an educational institution shall not*  
19 *be payable to any individual with respect to any week which*  
20 *commences during a period between two successive academic*  
21 *years or terms if the individual performs the service in the first of*  
22 *the academic years or terms and there is a reasonable assurance*  
23 *that the individual will perform the service in the second of the*  
24 *academic years or terms. However, if the individual was not offered*  
25 *an opportunity to perform the services for an educational institution*  
26 *for the second of the academic years or terms, the individual shall*  
27 *be entitled to a retroactive payment of benefits for each week for*  
28 *which the individual filed a timely claim for benefits and for which*  
29 *benefits were denied solely by reason of this subdivision.*  
30 *Retroactive benefits shall be claimed in accordance with the*  
31 *department's procedures which shall specify that except where the*  
32 *individual was entitled to benefits based on services performed*  
33 *for other than an educational institution, an individual who has a*  
34 *reasonable assurance of reemployment may satisfy the search for*  
35 *work requirement of subdivision (e) of Section 1253, by registering*  
36 *for work pursuant to subdivision (b) of Section 1253 during the*  
37 *period between the first and second academic terms or years. A*  
38 *claim for retroactive benefits may be made no later than 30 days*  
39 *following the commencement of the second academic year or term.*

(2) *Benefits specified by subdivision (a) are authorized for an individual in the employ of a public school for the period between two successive academic years or terms, as described in paragraph (1), as follows:*

- (A) *Two weeks of benefits during 2016 beginning July 1.*
- (B) *Four weeks of benefits during 2017 beginning July 1.*
- (C) *Six weeks of benefits during 2018 beginning July 1.*
- (D) *Eight weeks of benefits during 2019 and each year thereafter beginning July 1.*

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any entity as defined by Section 605, with respect to services specified by subdivision (b) or (c), are not payable to any individual with respect to any week that commences during an established and customary vacation period or holiday recess if the individual performs the specified services in the week immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) With respect to any services specified by subdivision (b) or (c), compensation payable on the basis of services in that capacity may be denied as specified in subdivision (b), (c), or (d) to any individual who performed the services in an educational institution while in the employ of an educational service agency, and for this purpose the term “educational service agency” is defined as a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing the services to one or more educational institutions.

(f) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any entity as defined by Section 605, are not payable during the periods of time, and subject to the same conditions, contained in subdivisions (b), (c), (d), and (h), if the services are provided to, or on behalf of, an educational institution.

(g) For purposes of this section, “reasonable assurance” includes, but is not limited to, an offer of employment or assignment made by the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes. An individual who has been notified that he or she will be replaced and does not have an offer of employment or assignment to perform

1 services for an educational institution is not considered to have  
2 reasonable assurance.

3 (h) For purposes of this section, if the time for service performed  
4 during the period of and pursuant to any contract for any academic  
5 year or term by an individual for any employing unit as specified  
6 in subdivision (b) or (c) constitutes one-half or more of the time  
7 in total service performed for the employing unit by the individual  
8 during that same period for remuneration, all the services of the  
9 individual for the employing unit for that period shall be deemed  
10 subject to the benefit payment restriction provisions of this section.

11 (i) Any entity as defined by Section 605, with respect to any  
12 individual performing a service in any other capacity other than  
13 specified in subdivision (b) for an educational institution, shall  
14 provide a written statement indicating the following to the  
15 individual no later than 30 days before the end of the first of the  
16 academic years or terms:

17 (1) Whether or not there is a reasonable assurance of  
18 reemployment.

19 (2) Whether or not it is stated that the individual has no  
20 reasonable assurance of reemployment, that the individual should  
21 file a claim for benefits at the close of the academic year or term.

22 (3) If it is stated that the individual has reasonable assurance of  
23 reemployment, the written statement shall also inform the employee  
24 that he or she may file a claim for benefits and that the  
25 determination for eligibility for benefits is made by the  
26 Employment Development Department and not by the employer.

27 (4) If it is stated that the individual has reasonable assurance of  
28 reemployment, that the individual shall be entitled to a retroactive  
29 payment of benefits if the individual is not offered an opportunity  
30 to perform the services for the educational institution for the second  
31 of the academic years or terms, if the individual is otherwise  
32 eligible and he or she filed a claim for each week benefits are  
33 claimed, and if a claim for retroactive benefits is made no later  
34 than 30 days following the commencement of the second academic  
35 year or term.

36 SEC. 2. Section 1451 of the Unemployment Insurance Code  
37 is repealed.

38 SEC. 3. Section 1452 of the Unemployment Insurance Code  
39 is repealed.

1     SEC. 4. Section 1453 of the Unemployment Insurance Code  
2     is repealed.

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